
HOUSE BILL No. 1438

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4-6.1; IC 6-1.1; IC 6-3.1; IC 8-22-3.5-16.

Synopsis: Enterprise zones. Provides that a taxpayer is entitled to a credit against property tax liability on personal property other than inventory. Provides that the state enterprise zone board shall allocate the tax credits to each qualified urban enterprise zone association (QUEZA) based on the amount of business personal property in each qualified enterprise zone. Allows a QUEZA to allocate its share of the statewide credits to zone businesses that enter into an allocation agreement with the QUEZA. Provides that the total amount of credits allowed statewide each year may not exceed \$60,000,000, as adjusted each year after 2005. Provides that the enterprise zone investment cost credit is assignable. Allows the enterprise zone board to designate contiguous property in two municipalities as an enterprise zone. Establishes criteria for designation as a multijurisdictional enterprise zone. Allows the board to designate up to 29 enterprise zones.

Effective: Upon passage; January 1, 2002 (retroactive); July 1, 2004.

Klinker, Buell, Harris, Scholer

January 20, 2004, read first time and referred to Committee on Ways and Means.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1438

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-4-6.1-2, AS AMENDED BY P.L.90-2002,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. (a) The board has the following powers, in
4 addition to other powers that are contained in this chapter:

5 (1) To review and approve or reject all applicants for enterprise
6 zone designation, according to the criteria for designation which
7 this chapter provides.

8 (2) To waive or modify rules as provided in this chapter.

9 (3) To provide a procedure by which enterprise zones may be
10 monitored and evaluated on an annual basis.

11 (4) To adopt rules for the disqualification of a zone business from
12 eligibility for any or all incentives available to zone businesses, if
13 that zone business does not do one (1) of the following:

14 (A) If all of its incentives, as contained in the summary required
15 under section 2.5 of this chapter, exceed one thousand dollars
16 (\$1,000) in any year, pay a registration fee to the board in an
17 amount equal to one percent (1%) of all of its incentives.

18 (B) Use all of its incentives, except for the amount of registration

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fee, for its property or employees in the zone.

(C) Remain open and operating as a zone business for twelve (12) months of the assessment year for which the incentive is claimed.

(5) To disqualify a zone business from eligibility for any or all incentives available to zone businesses in accordance with the procedures set forth in the board's rules.

(6) After a recommendation from an urban enterprise association **or upon receipt of an application for boundary modification under section 3(j) of this chapter**, to modify an enterprise zone boundary if the board determines that the modification:

(A) is in the best interests of the zone; and

(B) meets the threshold criteria and factors set forth in section 3 of this chapter.

(7) To employ staff and contract for services.

(8) To receive funds from any source and expend these funds for the administration and promotion of the enterprise zone program.

(9) To make determinations under IC 6-3.1-11 concerning the designation of locations as industrial recovery sites and the availability of the credit provided by IC 6-1.1-20.7 to persons owning inventory located on an industrial recovery site.

(10) To make determinations under IC 6-1.1-20.7 and IC 6-3.1-11 concerning the disqualification of persons from claiming credits provided by those chapters in appropriate cases.

(11) To make determinations under IC 6-3.1-11.5 concerning the designation of locations as military base recovery sites and the availability of the credit provided by IC 6-3.1-11.5 to persons making qualified investments in military base recovery sites.

(12) To make determinations under IC 6-3.1-11.5 concerning the disqualification of persons from claiming the credit provided by IC 6-3.1-11.5 in appropriate cases.

(13) To approve enterprise zone personal property credit allocation plans and make determinations under IC 6-1.1-20.8.

(b) In addition to a registration fee paid under subsection (a)(4), each zone business that receives a credit under this chapter shall assist the zone urban enterprise association created under section 4 of this chapter in an amount determined by the legislative body of the municipality in which the zone is located. If a zone business does not assist an urban enterprise association, the legislative body of the municipality in which the zone is located may pass an ordinance disqualifying a zone business from eligibility for all credits or incentives available to zone businesses. If a legislative body

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disqualifies a zone business under this subsection, the legislative body shall notify the board, the department of local government finance, and the department of state revenue in writing within thirty (30) days of the passage of the ordinance disqualifying the zone business. Disqualification of a zone business under this section is effective beginning with the taxable year in which the ordinance disqualifying the zone business is passed.

SECTION 2. IC 4-4-6.1-3, AS AMENDED BY P.L.289-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The board may designate up to ten (10) enterprise zones, in addition to any enterprise zones which the federal government may designate in the state. ~~After January 1, 1988,~~ The board may by seven (7) affirmative votes increase the number of enterprise zones above ten (10), but it may add no more than two (2) new zones each year (excluding any zone that may be added by the board in a municipality in which a previously designated zone has expired **or whose boundary is modified under subsection (j)**) and may not add any new zones after December 31, 2015. **However, the number of enterprise zones designated by the board may not exceed twenty-nine (29).** There may be no more than one (1) enterprise zone in any municipality.

(b) After approval by resolution of the legislative body, the executive of any municipality that is not an included town under IC 36-3-1-7 may submit:

- (1) one (1) application to the enterprise zone board to have one (1) portion of the municipality designated as an enterprise zone;
- (2) **a joint application under subsection (c) for designation of an enterprise zone; or**
- (3) **a joint application for a boundary modification under subsection (j).**

If an application is denied, the executive may submit a new application. The board by rule shall provide application procedures.

(c) **This subsection applies to municipalities that do not contain an enterprise zone. The executives of two (2) municipalities may submit a joint application to the enterprise zone board to have a contiguous area located in each municipality designated as an enterprise zone.**

(d) The board shall evaluate an enterprise zone application if it finds that the following threshold criteria exist in a proposed zone:

- (1) A poverty level in which twenty-five percent (25%) of the households in the zone are below the poverty level as established by the most recent United States census or an average rate of

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unemployment for the most recent eighteen (18) month period for which data is available that is at least one and one-half (1 1/2) times the average statewide rate of unemployment for the same eighteen (18) month period.

(2) For a proposed zone located within one (1) municipality, a population of more than two thousand (2,000) but less than ten thousand five hundred (10,500).

(3) For a proposed zone located within two (2) municipalities, a population of more than four thousand (4,000) but less than twenty-one thousand (21,000).

(4) For a proposed zone located within one (1) municipality, an area of more than three-fourths (3/4) square mile but less than four (4) square miles, with a continuous boundary (using natural, street, or highway barriers when possible) entirely within the applicant municipality. However, if the zone includes a parcel of property that:

(A) is owned by the municipality; and

(B) has an area of twenty-five (25) acres or more;

the area of the zone may be increased above the four (4) square mile limitation by an amount not to exceed the area of the municipally owned parcel.

~~(4)~~ (5) For a proposed zone located within two (2) municipalities, an area of more than three-fourths (3/4) square mile but less than eight (8) square miles with a contiguous boundary (using natural, street, or highway boundaries if possible) between the applicant municipalities. However, if the zone includes a parcel of property that:

(A) is owned by the municipality; and

(B) has an area of at least twenty-five (25) acres;

the area of the zone may be increased above the eight (8) square mile limitation by an amount not to exceed the area of the municipally owned parcel.

(6) For a proposed zone located within one (1) municipality, any property suitable for the development of a mix of commercial, industrial, and residential activities.

~~(5)~~ (7) For a proposed zone located within two (2) municipalities, property in both municipalities suitable for the development of a mix of commercial, industrial, and residential activities.

(8) The appointment of an urban enterprise association that meets the requirements of section 4 of this chapter.

~~(6)~~ (9) A statement by the applicant indicating its willingness to

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provide certain specified economic development incentives.

~~(d)~~ (e) If an applicant has met the threshold criteria of subsection ~~(c)~~, (d), the board shall evaluate the application, arrive at a decision based on the following factors, and either designate a zone or reject the application:

(1) Level of poverty, unemployment, and general distress of the area in comparison to other applicant and nonapplicant municipalities and the expression of need for an enterprise zone over and above the threshold criteria contained in subsection ~~(c)~~ (d).

(2) Evidence of support for designation by residents, businesses, and private organizations in the proposed zone, and the demonstration of a willingness among those zone constituents to participate in zone area revitalization.

(3) Efforts by the applicant municipality to reduce the impediments to development in the zone area where necessary, including but not limited to the following:

(A) A procedure for streamlining local government regulations and permit procedures.

(B) Crime prevention activities involving zone residents.

(C) A plan for infrastructure improvements capable of supporting increased development activity.

(4) Significant efforts to encourage the reuse of existing zone structures in new development activities to preserve the existing character of the neighborhood, where appropriate.

(5) The proposed managerial structure of the zone and the capacity of the urban enterprise association to carry out the goals and purposes of this chapter.

~~(c)~~ (f) An enterprise zone **designated under subsection (e)** expires ten (10) years from the day on which it is designated by the board. The two (2) year period immediately before the day on which it expires is the phase out period. During the phase out period, the board may review the success of the enterprise zone based upon the following criteria and may, with the consent of the budget committee, renew the zone, including all provisions of this chapter, for a period of five (5) years:

(1) Increases in capital investment in the zone.

(2) Retention of jobs and creation of jobs in the zone.

(3) Increases in employment opportunities for residents of the zone.

~~(f)~~ (g) If an enterprise zone is renewed under subsection ~~(c)~~, (f), the two (2) year period immediately before the date on which the zone

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1 expires is another phase out period. During the phase out period, the
 2 board may review the success of the enterprise zone based upon the
 3 criteria set forth in subsection ~~(e)~~ **(f)** and, with the consent of the
 4 budget committee, may again renew the zone, including all provisions
 5 of this chapter, for a final period of five (5) years. The zone may not be
 6 renewed after the expiration of this final five (5) year period.

7 ~~(g)~~ **(h)** Notwithstanding any other provision of this chapter, one (1)
 8 or more units (as defined in IC 36-1-2-23) may declare all or any part
 9 of a military base or other military installation that is inactive, closed,
 10 or scheduled for closure as an enterprise zone. Such a declaration shall
 11 be made by a resolution of the legislative body of the unit that contains
 12 the geographic area being declared an enterprise zone. The legislative
 13 body must include in the resolution that an urban enterprise association
 14 is created or designate another entity to function as the urban enterprise
 15 association under this chapter. The resolution must also be approved
 16 by the executive of the unit. If the resolution is approved, the executive
 17 shall file the resolution and the executive's approval with the board. If
 18 an entity other than an urban enterprise association is designated to
 19 function as an urban enterprise association, the entity's acceptance must
 20 be filed with the board along with the resolution. The enterprise zone
 21 designation is effective on the first day of the month following the date
 22 the resolution is filed with the board. Establishment of an enterprise
 23 zone under this subsection is not subject to the limit of two (2) new
 24 enterprise zones each year under subsection (a).

25 ~~(h)~~ **(i)** The enterprise zone board may not approve the enlargement
 26 of an enterprise zone's geographic boundaries unless the area to be
 27 enlarged:

28 **(1)** meets the criteria of economic distress set forth in subsection

29 ~~(c)(1)~~ **(d)(1)**; or

30 **(2)** is part of a boundary modification under subsection (j).

31 **(j)** The enterprise zone board may modify an enterprise zone's
 32 geographic boundaries if the executive of the municipality in which
 33 the enterprise zone is located and the executive of another
 34 municipality submit a joint application to the enterprise zone
 35 board to modify the enterprise zone's geographic boundaries to
 36 include an area that is:

37 **(1)** located in the other municipality; and

38 **(2)** contiguous to the enterprise zone.

39 The enterprise zone board shall evaluate the application using the
 40 threshold criteria set forth in subsection (d) and the factors set
 41 forth in subsection (e). The modification of an enterprise zone's
 42 geographic boundaries under this subsection is not considered an

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addition of a new enterprise zone for purposes of subsection (a). An enterprise zone modified under this subsection expires on the date on which the enterprise zone whose boundary was modified under this section would have expired.

SECTION 3. IC 4-4-6.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) There is created in each applicant for designation as an enterprise zone and in each enterprise zone an urban enterprise association, referred to as the U.E.A. in this chapter. ~~Its~~

(b) In the case of an enterprise zone located in a single jurisdiction, the twelve (12) members of the U.E.A. are to be chosen as follows:

(1) The governor shall appoint the following:

(A) One (1) state legislator whose district includes all or part of the enterprise zone.

(B) One (1) representative of the state department of commerce, who is not a voting member of the U.E.A.

(2) The executive of the municipality in which the zone is located shall appoint the following:

(A) One (1) representative of the plan commission having jurisdiction over the zone, if any exists.

(B) One (1) representative of the municipality's department that performs planning or economic development functions.

(C) Two (2) representatives of businesses located in the zone, one (1) of which shall be from a manufacturing concern, if any exists in the zone.

(D) One (1) resident of the zone.

(E) One (1) representative of organized labor from the building trades that represent construction workers.

(3) The legislative body of the municipality in which the zone is located shall appoint, by majority vote, the following:

(A) One (1) member of the municipality's legislative body whose district includes all or part of the zone.

(B) One (1) representative of a business located in the zone.

(C) Two (2) residents of the zone, who must not be members of the same political party.

(c) In the case of a multijurisdictional enterprise zone located within two (2) municipalities, the members of the urban enterprise zone association are to be chosen as follows:

(1) The governor shall appoint the following:

(A) One (1) state legislator whose district includes all or part of the enterprise zone.

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(B) One (1) representative of the department of commerce (or any successor agency), who is not a voting member of the U.E.A.

(2) The executive of each municipality in which the zone is located shall appoint the following:

(A) One (1) representative of the plan commission having jurisdiction over the zone, if a plan commission exists.

(B) One (1) representative of the municipality's department that performs planning or economic development functions.

(C) Two (2) representatives of businesses located in the zone, one (1) of whom must be from a manufacturing concern, if a manufacturing concern exists in the zone.

(D) One (1) resident of the zone.

(E) One (1) representative of organized labor from the building trades that represent construction workers.

(3) The legislative body of each municipality in which the zone is located shall appoint, by majority vote, the following:

(A) One (1) member of the municipality's legislative body whose district includes all or part of the zone.

(B) One (1) representative of a business located in the zone.

(C) Two (2) residents of the zone, who must not be members of the same political party.

~~(b)~~ **(d)** Members of the urban enterprise association serve four (4) year terms. The appointing authority shall fill any vacancy for the balance of the vacated term.

~~(c)~~ **(e)** Members may be dismissed only by the appointing authority and only for just cause.

~~(d)~~ **(f)** The members shall elect a chairman, a vice chairman, and a secretary by majority vote. This election shall be held every two (2) years in the same month as the first meeting or whenever a vacancy occurs. The U.E.A. shall meet at least once every three (3) months. The secretary shall notify members of meetings at least two (2) weeks in advance of meetings. The secretary shall provide a list of members to each member and shall notify members of any changes in membership.

~~(e)~~ **(g)** If an applicant for designation as an enterprise zone does not receive that designation, the U.E.A. in that municipality is dissolved when the application is rejected.

SECTION 4. IC 6-1.1-20.7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The provisions of ~~IC 6-1.1-20.8-2~~ **IC 6-1.1-20.8-2.5** and IC 6-1.1-20.8-3 with respect to the enterprise zone ~~inventory~~ **personal property tax** credit concerning:

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- (1) the time, place, and procedures for filing applications;
- (2) notice and appeal procedures; and
- (3) review procedures;

apply to the administration of the credit provided by this chapter.

SECTION 5. IC 6-1.1-20.8-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. The following definitions apply throughout this chapter:**

(1) "Enterprise zone" refers to an enterprise zone created under IC 4-4-6.1.

(2) "Enterprise zone board" refers to the enterprise zone board created by IC 4-4-6.1-1.

(3) "Enterprise zone inventory" means inventory, as defined in IC 6-1.1-3-11, that is located within an enterprise zone created under IC 4-4-6.1 on the assessment date.

(4) "Enterprise zone personal property" refers to personal property (as defined in IC 6-1.1-1-11), other than enterprise zone inventory, that is located within an enterprise zone created under IC 4-4-6.1 on the assessment date.

(5) "Qualified enterprise zone business" means, with respect to a year, a business that meets all the following conditions for the year:

(A) At least fifty percent (50%) of the total gross receipts of the business is derived from sources within an enterprise zone.

(B) At least fifty percent (50%) of the value of real property and tangible personal property used in the business of the business is located within an enterprise zone.

(C) At least fifty percent (50%) of the wages, salaries, commissions, and other compensation of employees of the business are paid to individuals employed at a location in an enterprise zone.

(D) At least fifty percent (50%) of the employees of the business are Indiana residents.

(E) If the entity is a pass through entity, at least fifty percent (50%) of the taxable income for the taxable year is allocated to the owners of the pass through entity who are residents of Indiana.

The term includes any part of a business, such as a separate facility or plant, that would meet the conditions in clauses (A) through (E) if the part of the business were separately incorporated.

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(6) "Qualified urban enterprise zone association" refers to an urban enterprise zone association established under IC 4-4-6.1 that is determined by the enterprise zone board to be qualified under section 5 of this chapter.

(7) "Real property" has the meaning set forth in IC 6-1.1-1-15.

SECTION 6. IC 6-1.1-20.8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person that meets the conditions of this chapter and is allocated a credit under this chapter is entitled to a credit against his the person's property tax liability under IC 6-1.1-2 for a particular year in the amount of his property tax liability under IC 6-1.1-2 on business personal property (other than enterprise zone inventory) for that year. The amount of the credit is the amount specified in the taxpayer's allocation agreement under this chapter.

(b) As used in this section, "enterprise zone inventory" means inventory, as defined in IC 6-1.1-3-11, that is located within an enterprise zone created under IC 4-4-6.1 on the assessment date.

SECTION 7. IC 6-1.1-20.8-2.5, AS AMENDED BY P.L.256-2003, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) A person that desires to claim the credit provided by section 1 of this chapter shall file a certified application, on forms prescribed by the department of local government finance, with the auditor of the county where the property for which the credit is claimed was located on the assessment date. A person that timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year must file the application between March 1 and May **October** 15 of that year in order to obtain the credit in the following year. A person that obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year in order to obtain the credit in the following year.

(b) A taxpayer shall include on an application filed under this section:

(1) all information that the department of local government finance requires and the enterprise zone board require to determine eligibility for the credit provided under this chapter; and

(2) a copy of the allocation agreement entered into by the qualified urban enterprise zone association and the taxpayer.

(c) Compliance with this chapter does not exempt a person from compliance with IC 4-4-6.1-2.5.

SECTION 8. IC 6-1.1-20.8-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: Sec. 5. (a) Subject to subsection (b), the enterprise zone board shall certify that an urban enterprise association established under IC 4-4-6.1 is qualified to receive an allocation of tax credits under this chapter if the enterprise zone for which the urban enterprise association was created meets the conditions of IC 4-4-6.1-3(c) and any other conditions adopted by the enterprise zone board.

(b) The enterprise zone board may not do either of the following:

(1) Certify more than twenty-nine (29) urban enterprise associations as qualified under this section.

(2) After December 31, 2004, certify more than one (1) additional urban enterprise association as qualified under this section each calendar year.

SECTION 9. IC 6-1.1-20.8-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Before June 1 of each year, the county auditor of each county containing an enterprise zone shall certify to the department of local government finance the net assessed value of business personal property located in each enterprise zone in the county as of the most recent assessment date.

(b) Before July 1 of each year, the department of local government finance shall certify to the enterprise zone board the net assessed value of business personal property located in each enterprise zone in Indiana as of the most recent assessment date.

(c) Before July 15 of each year, the enterprise zone board shall allocate tax credits under this chapter to each qualified urban enterprise zone association. The enterprise zone board shall also notify the auditor of each county containing an enterprise zone of the amount of credits allocated to each qualified urban enterprise zone association. Except as provided in subsection (d), the amount of tax credits that may be allocated to a qualified urban enterprise zone association equals:

(1) the amount of tax credits available for allocation under section 10 of this chapter in the calendar year; multiplied by

(2) a fraction equal to:

(A) the net assessed value of business personal property located in the enterprise zone for which the qualified urban enterprise association was created, as certified under subsection (b) for the year; divided by

(B) the net assessed value of business personal property located in all enterprise zones in Indiana for which a qualified urban enterprise association was created, as

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certified under subsection (b) for the year.

(d) The enterprise zone board may not allocate more than one million dollars (\$1,000,000) of tax credits under this chapter in a particular year to a qualified urban enterprise association established after December 31, 2003.

SECTION 10. IC 6-1.1-20.8-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. Subject to the provisions of this chapter, a taxpayer is entitled to a credit under this chapter as specified in section 1 of this chapter for a particular year if:**

- (1) the taxpayer is a qualified enterprise zone business;
- (2) the qualified urban enterprise zone association allocates a credit to the taxpayer for a particular year under the qualified urban enterprise zone association's allocation plan applicable to the year; and
- (3) the taxpayer complies with the conditions set forth in this chapter and in the allocation agreement entered into by the qualified urban enterprise zone association and the taxpayer under this chapter.

SECTION 11. IC 6-1.1-20.8-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) Before allocating a tax credit under this chapter to a taxpayer, the qualified urban enterprise zone association and the taxpayer must enter into an allocation agreement. The allocation agreement must:**

- (1) conform to the qualified urban enterprise zone association's allocation plan;
- (2) be entered into by the qualified urban enterprise zone association and the taxpayer before October 1 of the year preceding the year in which the credit will be claimed; and
- (3) include at least the following:
 - (A) The calendar years in which the credit may be claimed by the taxpayer.
 - (B) The amount of the credit that may be claimed by the taxpayer in a particular calendar year.
 - (C) Any other conditions adopted by the qualified urban enterprise zone association that the taxpayer must satisfy before the taxpayer may claim the credit.

(b) An allocation agreement under subsection (a) may not allocate a credit under this chapter to a taxpayer for more than five (5) years. However, after an allocation agreement under subsection (a) between a qualified urban enterprise zone

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1 association and a taxpayer has expired, the qualified urban
2 enterprise zone association and the taxpayer may enter into a new
3 allocation agreement under subsection (a).

4 SECTION 12. IC 6-1.1-20.8-9 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The county auditor
7 shall determine the eligibility of each applicant under this chapter
8 and shall notify the applicant of the determination before
9 December 31 of the year in which the application is made.

10 (b) A person may appeal the determination of the county auditor
11 under subsection (a) by filing a complaint in the office of the clerk
12 of the circuit or superior court not more than forty-five (45) days
13 after the county auditor gives the person notice of the
14 determination.

15 SECTION 13. IC 6-1.1-20.8-10 IS ADDED TO THE INDIANA
16 CODE AS A NEW SECTION TO READ AS FOLLOWS
17 [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The total amount of
18 credits allowed under this section may not exceed in total sixty
19 million dollars (\$60,000,000) for all taxpayers in the calendar year
20 ending December 31, 2005, as adjusted under subsections (b) and
21 (c).

22 (b) For each calendar year beginning after December 31, 2005,
23 the total amount of credits allowed under this section shall be
24 increased by five percent (5%), as compared to the previous
25 calendar year.

26 (c) In addition to any adjustment under subsection (b), the total
27 amount of credits allowed under this section shall be increased by
28 one million dollars (\$1,000,000) for each additional qualified urban
29 enterprise zone association that is approved by the enterprise zone
30 board under section 6 of this chapter after December 31, 2004. An
31 adjustment under this section is effective beginning in the calendar
32 year following the calendar year in which the additional qualified
33 urban enterprise zone association is approved.

34 SECTION 14. IC 6-3.1-10-4, AS AMENDED BY P.L.170-2002,
35 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 4. (a) As used in this
37 chapter, "taxpayer" means any individual that has any state tax liability.

38 (b) Notwithstanding subsection (a), for a credit for a qualified
39 investment in a business located in an enterprise zone in a county
40 having a population of more than one hundred five thousand (105,000)
41 but less than one hundred ten thousand (110,000), "taxpayer" includes
42 a pass through entity.

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1 (c) Notwithstanding subsection (a), for purposes of receiving a
 2 credit assigned under section 10 of this chapter, "taxpayer" means
 3 any person that has any state tax liability.

4 SECTION 15. IC 6-3.1-10-10 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JANUARY 1, 2002 (RETROACTIVE)]: Sec. 10. (a) A taxpayer may
 7 assign any part of the credit to which the taxpayer is entitled under
 8 this chapter to another taxpayer. A credit that is assigned under
 9 this subsection remains subject to this chapter.

10 (b) An assignment under subsection (a) must be in writing, and
 11 both the taxpayer and the assignee must report the assignment on
 12 their state tax returns for the year in which the assignment is
 13 made, in the manner prescribed by the department. The taxpayer
 14 may not receive value in connection with the assignment under
 15 subsection (a) that exceeds the value of the part of the credit
 16 assigned.

17 (c) Notwithstanding any other law, a tax credit assigned under
 18 subsection (a) is not subject to the reinvestment and use
 19 requirements set forth in 58 IAC 2-1-2.

20 SECTION 16. IC 6-3.1-11.5-21 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. The board shall
 22 consider the following factors in evaluating applications filed under
 23 this chapter:

24 (1) The level of distress in the surrounding community caused by
 25 the loss of jobs at the vacant military base facility.

26 (2) The desirability of the intended use of the vacant military base
 27 facility under the plan proposed for the development and use of the
 28 vacant military base facility and the likelihood that the
 29 implementation of the plan will improve the economic and
 30 employment conditions in the surrounding community.

31 (3) Evidence of support for the designation by residents,
 32 businesses, and private organizations in the surrounding
 33 community.

34 (4) Evidence of a commitment by private or governmental entities
 35 to provide financial assistance in implementing the plan for the
 36 development and use of the vacant military base facility, including
 37 the application of IC 36-7-12, IC 36-7-13, IC 36-7-14,
 38 IC 36-7-14.5, IC 36-7-15.1, or IC 36-7-30 to assist in the financing
 39 of improvements or redevelopment activities benefiting the vacant
 40 military base facility.

41 (5) Evidence of efforts to implement the proposed plan without
 42 additional financial assistance from the state.

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(6) Whether the proposed military base recovery site is within an economic revitalization area designated under IC 6-1.1-12.1.

(7) Whether action has been taken by the legislative body of the municipality or county having jurisdiction over the proposed military base recovery site to establish an enterprise zone under ~~IC 4-4-6.1-3(g)~~ **IC 4-4-6.1-3(h)**.

SECTION 17. IC 8-22-3.5-16, AS AMENDED BY P.L.90-2002, SECTION 335, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) This section applies only to an airport development zone that is located in a county described in section 1(5) of this chapter.

(b) Except as described in this section, and notwithstanding any other law, a business or an employee of a business that is located in an airport development zone is entitled to the benefits of the enterprise zone ~~inventory~~ **personal** property tax credit under IC 6-1.1-20.8.

(c) The benefits under this section are available only to:

- (1) a business new to the airport development zone; or
- (2) an existing business in the airport development zone that expands its operation.

(d) To be eligible for the benefits under this section, the business must submit a proposal to the commission for approval. The commission may adopt standards and procedures for the proposal. In addition to other items the commission determines must be included, the proposal must state the percentage of permanent jobs which the business will create in the airport development zone.

(e) A business must obtain the approval of:

- (1) the city fiscal body if the business is located in a city; or
- (2) the county council if the business is not located within a city;

before the business is entitled to any benefits under this section. A city or county fiscal body may approve by any method benefits under this section for either an individual business or a group of businesses. A city or county fiscal body may adopt standards and procedures to implement this subsection.

(f) If the business receives the approval of:

- (1) the commission under subsection (d); and
- (2) the appropriate council under subsection (e);

then before June 1 of each year, a business described in subsection (b) must pay a fee equal to the amount of the fee that is required for enterprise zone businesses under IC 4-4-6.1-2(4)(A). If the commission determines that a business has failed to pay the fee required by this subsection, the business is not eligible for any of the benefits described in subsection (b).

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(g) A business that receives any of the benefits described in subsection (b) must use all of those benefits, except for the amount of the fee required by subsection (d), for its property or employees in the airport development zone and to assist the commission. If the commission determines that a business has failed to use its benefits in the manner required by this subsection, the business is not eligible for any of the benefits described in subsection (b).

(h) If the commission determines that a business has failed to pay the fee required by subsection (f) or has failed to use benefits in the manner required by subsection (g), the commission shall provide written notice of the determination to the department of state revenue, the department of local government finance, and the county auditor.

SECTION 18. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-1.1-20.8-6(c)(2), as added by this act, the initial allocation of tax credits to a qualified urban enterprise zone association under IC 6-1.1-20.6, as amended by this act, shall be based on the 2002 net assessed value of business personal property located in the enterprise zone for which the qualified urban enterprise association was created and the 2002 net assessed value of business personal property located in all enterprise zones in Indiana for which a qualified urban enterprise association was created.

(b) This SECTION expires July 1, 2005

SECTION 19. [EFFECTIVE JULY 1, 2004] IC 6-1.1-20.8, as amended by this act, applies to property taxes first due and payable after December 31, 2004.

SECTION 20. [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)] IC 6-3.1-10-10, as added by this act, applies to taxable years beginning after December 31, 2001.

SECTION 21. An emergency is declared for this act.

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